



## **CASCABEL CONSERVATION ASSOCIATION**

**SUPPORTING CONSERVATION, COMMUNITY AND CONTEMPLATION  
IN THE MIDDLE SAN PEDRO RIVER VALLEY**

6146 N. Canyon Road, Cascabel, AZ 85602  
(520) 212-5862 / [www.cascabelconservation.org](http://www.cascabelconservation.org)

June 17, 2015

Ms. Sallie Diebolt  
Chief, Arizona Branch  
Department of the Army  
U.S. Army Corps of Engineers  
3636 N. Central Avenue, Suite 900  
Phoenix, AZ 85012-1939  
[Sallie.Diebolt@usace.army.mil](mailto:Sallie.Diebolt@usace.army.mil)

Mr. Bill Miller  
Senior Project Manager  
U.S. Army Corps of Engineers  
Arizona Nevada Area Office  
3636 N. Central Avenue, Suite 900  
Phoenix, AZ 85012  
[William.H.Miller@usace.army.mil](mailto:William.H.Miller@usace.army.mil)

Dear Ms. Diebolt and Mr. Miller:

The Cascabel Conservation Association (CCA) would like to express its deep concern about El Dorado's Vigneto development near Benson and the Corps' Section 404 permit for the Whetstone Ranch development, which Vigneto has inherited. While we were very concerned about this development prior to disclosures by the Tucson Audubon Society of the EPA's recommendations regarding the Section 404 permit, these disclosures heighten our concern.

The Cascabel Conservation Association was incorporated in 1997 as a 501(c)(3) non-profit corporation with a strong conservation orientation. We are located approximately 25 miles north of Benson, Arizona and own 600 acres of predominantly desert upland along Hot Springs Wash, which feeds the San Pedro River. We are also one-third undivided owners of 130 acres near the confluence of Hot Springs Wash and the river. These lands are all protected by conservation easements held by The Nature Conservancy or the Bureau of Land Management. Our membership is nearly 150 individuals, and all board members are local landowners.

Being downstream from this proposed development makes us very concerned about the potential long-term impacts here. The section of the San Pedro River that flows through our area has two perennial stretches and hosts some of the river's richest ecological values. When this development is fully built out, it will continually and perpetually lower groundwater levels in the Benson area, the effects of which will propagate over a much wider area. The full extent of these effects is unknown. We have thus strongly urged the Benson City Council to support groundwater modeling by the U.S. Geological Survey and others to determine the rate of draw down and the resulting impacts. Our letter requesting this modeling is attached.

We have read the letters from the EPA to the Corps regarding the Whetstone Ranch development dated June 14, 2004, July 1, 2004 and May 25, 2008. The following comments from the May 25, 2008 letter raise deep concerns about the Corps' issuance of a 404 permit for the project:

By our letter dated 1 July 2005, EPA issued a determination that permitting the proposed Whetstone Ranch development under Clean Water Act (CWA) Section 404 represented a substantial and unacceptable impact on aquatic resources of national importance (ARNI). We explained why the application did not conform to EPA's 404(b)(1) Guidelines and the National Environmental Policy Act (NEPA).

The attached comments detail our concerns regarding the Corps' issuance of a permit for the proposed project based upon: (1) the lack of an adequate analysis of alternatives to demonstrate the maximum practicable level of avoidance and minimization of adverse impacts to waters of the U.S. (waters) as required by CWA Section 404(b)(1); (2) the lack of an adequate compensatory mitigation plan to replace the functions and values of waters lost to unavoidable impacts; and (3) the limiting of the Corps' NEPA "scope of analysis" through an unrealistic, impracticable "no federal action" alternative which fails to meet the project purpose. Pursuant to 40 CFR 230.12(a)(3)(iv), the 404(b)(1) Guidelines and NEPA, we recommend the Corps reconsider its findings, require meaningful compliance from the applicant, or deny the permit.

The analysis and other comments in these letters make us question the Corps' handling of this permit review at that time.

Since approval of the permit in 2006, El Dorado LLC has significantly changed the development plan for the area, as outlined in its Villages at Vigneto master planned community. El Dorado proposes to develop land not identified or included in the Whetstone permit location. They now plan major new development west of Highway 90, and correspondingly, additional wash systems under jurisdiction of the Army Corps of Engineers will be subject to review for impacts and must be evaluated in a new permit. The scope (number of housing units) and the size (project footprint) of the proposed project have increased from 20,000 housing units on 8,200 acres to 27,760 housing units on 12,324 acres. This is a major change from the scenario reviewed by the Corps in 2004 and thus requires new analysis under the Clean Water Act. Additionally, substantial new scientific information on the hydrology of the middle San Pedro basin has been published over the last decade (notably two USGS Reports, 2010 and 2015), and your review must account for this information as well.

Most critically, U.S. Fish and Wildlife Service (FWS), which the Corps apparently did not consult under Section 7 of the Endangered Species Act for the previous permit application, must be consulted under this section for El Dorado's new development scenario. Since 2006, new critical habitat (finalized 2014) for the jaguar (*Panthera onca*), listed as Endangered, has been designated and overlaps the western project area of Vigneto. The ocelot (*Leopardus pardalis sonoriensis*), listed as Endangered in 1982, has not yet had critical habitat proposed but has recently been documented in the Whetstone Mountains adjoining the Vigneto project boundary (2009 by Sky Island Alliance).

Proposed new critical habitat (2015) for the western yellow-billed cuckoo (*Coccyzus americanus*), listed as Threatened, has been mapped immediately east (1.5–3.0 miles) of project site along the San Pedro River and may be impacted by projected increased groundwater use by the development. Southwestern willow flycatcher (*Empidonax traillii extimus*), listed as Endangered, has critical habitat (finalized 2013) downstream of the project site that could be impacted by increased groundwater pumping, including one of the two perennial river reaches near Cascabel (Three Links), which presently provides a nesting stronghold for this species as well as for the cuckoo. In addition, existing critical habitat (finalized 2004) for the Mexican spotted owl (*Strix occidentalis lucida*), listed as Threatened, now lies just 0.5 miles from the western project boundary of the project, and the Corps needs to consult the FWS for impacts to this species (i.e., noise, lighting, disturbance) as well.

Regarding plants, the Huachuca water umbel (*Lilaeopsis schaffneriana* var. *recurva*), an aquatic plant listed as Endangered and which thrives along the San Pedro River, has existing designated critical habitat (finalized in 1999) 5.75 miles southeast of the project boundary. Increased groundwater pumping required by the development could impact the habitat conditions suitable for this plant.

The above issues would require the Corps to revoke the previously issued 404 permit and begin updated analysis on the impacts to jurisdictional waters of the U.S., Aquatic Resources of National Importance (ARNI), i.e., the San Pedro River, and formally consult with the FWS regarding impacts to threatened and endangered species and to the designated (or proposed) critical habitat of these species.

Thank you for addressing these concerns.

Sincerely,



Norm "Mick" Meader  
Co-President  
Cascabel Conservation Association

Ex. 6 - Personal Privacy

cc: Jason Brush, Regulatory Chief, Region IX, Environmental Protection Agency  
Scott Richardson, Supervisory Fish & Wildlife Biologist, U.S. Fish and Wildlife Service